

**PD-1042-18**  
In the Court of Criminal Appeals of Texas  
At Austin

FILED  
COURT OF CRIMINAL APPEALS  
10/2/2018  
DEANA WILLIAMSON, CLERK

—◆—  
**No. 01-16-00768-CR**  
In the Court of Appeals  
For the First District of Texas  
At Houston

—◆—  
**No. 1487627**  
In the 337<sup>th</sup> District Court  
Of Harris County, Texas

—◆—  
**Ruben Lee Allen**  
*Appellant*

*v.*

**The State of Texas**  
*Appellee*

—◆—  
**State's Motion for Extension of Time  
To File Cross-Petition for Discretionary Review**  
—◆—

To the Honorable Court of Appeals:

The State of Texas asks for an extension of time until October 23 to file its petition for discretionary review. The following facts are relevant:

1. The appellant was indicted for aggravated robbery. (CR 22). The indictment alleged a prior felony conviction. (CR 22). The appellant pleaded not guilty, but a jury found him guilty as charged. (4 RR 5; CR 111). The jury found the enhancement allegations true and as-

sessed punishment at twenty-five years' confinement. (CR 121).

The trial court certified the appellant's right of appeal, and the appellant filed a timely notice of appeal. (CR 127, 130).

2. On November 28, 2017, a unanimous panel of the First Court affirmed the appellant's conviction, but, after declaring a court-cost statute facially unconstitutional, modified the judgment. The State filed a motion for *en banc* reconsideration.
3. On August 30, 2018, the same panel, in a 2-1 decision, affirmed the appellant's conviction and upheld the court-cost statute as constitutional. The *en banc* First Court then denied the State's motion for reconsideration.
4. The appellant filed a petition for discretionary review with this Court on September 26, 2018.
5. The State's cross-petition is currently due on October 8, 2018. A fifteen-day extension would yield a due date of October 23.
6. This is the State's first request for extension.
7. Since the new opinion from First Court was issued on August 30, the undersigned attorney has worked on the following appellate matters:

- a. Gustavo Aybar  
Nos. 01-18-00018-CR, 01-18-00019-CR & 01-18-00020-CR  
Brief filed August 31, 2018
- b. Vincent Depaul Stredic  
No. 14-18-00162-CR  
Brief filed September 5, 2018
- c. Daniel Lee Harrison  
Nos. 01-18-00150-CR & 01-18-00151-CR  
Brief filed September 6, 2018
- d. Daniel Moreno  
No. 14-18-00113-CR  
Brief Filed September 10, 2018
- e. Lesley Diamond  
No. 14-17-00005-CR  
Motion for rehearing filed September 11, 2018
- f. Damon Milton  
No. PD-0207-18  
Oral argument scheduled for October 3, 2018

8. The undersigned attorney has three other active cases assigned to him and is attempting to submit briefs in a timely manner.

WHEREFORE, the State prays that this Court will grant the requested extension.

Respectfully submitted,

/s/ C.A. Morgan

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## **Certificate of Service**

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/s/ C.A. Morgan  
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Date: October 2, 2018